United Nations CRPD/C/TKM/CO/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Turkmenistan*

I. Introduction

1. The Committee considered the initial report of Turkmenistan (CRPD/C/TKM/1) at its 182nd and 183rd meetings (CRPD/C/SR.182 and 183), held on 1 and 2 April 2015, and adopted the following concluding observations at its 195th meeting , held on 14 April 2015.

2. The Committee welcomes the initial report of Turkmenistan, which was prepared in accordance with the Committee's reporting guidelines, and commends the State party for its written replies (CRPD/C/TKM/Q/1/Add.1 and Corr.1) to the list of issues prepared by the Committee.

3. The Committee appreciates the constructive dialogue with the State party's high-level delegation.

II. Positive aspects

4. The Committee commends the State party for the adoption of legislation, policies and other measures aimed at promoting and protecting the rights of persons with disabilities. In particular, it takes notes of:

(a) The State party's efforts to review and amend its legislation and change its practices in the field of comprehensive early identification, care and development by setting up early childhood development centres and in the area of education through the new successful initiative on child-friendly schools developed with the United Nations Children's Fund, and the provisions on inclusive education included in the Education Law reform in 2013;

(b) The adoption of various tax-exemption measures to ease the burden of persons with disabilities and other measures to ensure their rights as passengers;

(c) The special services created to provide hostels for persons with pyschosocial disabilities who have lost their social ties;

* Adopted by the Committee at its thirteenth session (25 March-17 April 2015).

(d) The measures allowing parents to file a complaint with the central education administration to request that members of medical and educational assessment commissions deciding on children's placement in regular schools be reappointed, and that, based on the Family Code of 10 January 2012, special consideration be given to the child's social background and other salient features of their background;

(e) The progress made in providing information and books in accessible formats in the State party's largest libraries;

(f) The Rights of the Child Act (2014);

(g) The Women's Equality Act (2007);

(h) The commitment of the State party expressed during the dialogue to setting up an independent human rights institution (the Ombudsperson Institution) in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

5. The Committee is concerned that the concept of disability set forth in the Social Protection Code does not fully comply with the Convention and that the State party takes a medical approach to determining disability. The Committee is also concerned that the State party has not clarified how the definition of disability is binding upon enterprises, institutions and organizations, especially in the field of employment. The Committee is further concerned about the lack of sufficient information on the legal safeguards and remedies available in case of a violation of the rights of persons with disabilities.

6. **The Committee recommends that the State party review its legislation and harmonize it with the Convention, including by adopting a social and human rights model for disability. The State party should also ensure the involvement of experts from the social, labour and education fields on the assessment panels determining disability. The State party should further provide clear legal safeguards and remedies, as well as related procedures, for cases of violations of the rights of persons with disabilities.**

7. The Committee is concerned at the lack of information in the replies to the list of issues regarding the legal grounds applicable when refusing to register a voluntary association in the framework of the Voluntary Association Act of 2014. It is also concerned at the lack of measures taken to ensure that organizations of persons with disabilities are systematically involved in the implementation of the Convention.

8. **The Committee recommends that the State party take effective steps to ensure that the legislation relevant to voluntary associations is available in accessible formats to persons with disabilities, and that it includes appropriate legal safeguards. The Committee recommends that the State party ensure that international organizations, agencies and experts facilitate and support the creation, capacity-building and effective participation of organizations of persons with disabilities, including by establishing regular and better-documented mechanisms for convening consultations with them.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

9. The Committee is concerned that the legislation of the State party lacks a definition of disability-based discrimination that explicitly addresses all forms of discrimination, including the denial of reasonable accommodation as a form of discrimination. It is also concerned about the lack of information and data regarding the implementation of measures taken to eliminate discrimination against persons with disabilities, including legal remedies and measures.

10. **The Committee recommends that the State party review its legislation to incorporate a definition of disability-based discrimination that explicitly addresses all forms of discrimination, including the denial of reasonable accommodation. The Committee also recommends that the State party ensure the effective implementation of existing measures to eliminate discrimination against persons with disabilities, with clear targets based on comparable disaggregated data, and consider adopting further affirmative-action measures and remedies to ensure equal and effective inclusion and protection of persons with disabilities.**

Women with disabilities (art. 6)

11. The Committee is concerned that women and girls with disabilities experience multiple and intersectional forms of discrimination, which affect their rights to education, health and employment and the right to be protected from violence. It is also concerned at the lack of specific information on the impact of the measures taken by the State party to involve women and girls with disabilities in development programmes and ensure their rights under the Convention.

12. **The Committee recommends that the State party design and implement effective programmes, as part of the Women's Equality Act, including affirmative-action measures, to promote the rights of women and girls with disabilities and eliminate discrimination against them in all aspects of life, and ensure that their views are duly considered in development programmes.**

Children with disabilities (art. 7)

13. The Committee is concerned about the lack of information on the concrete achievements of the programmes on early childhood development and early identification of developmental delays. It is also concerned that children with disabilities reaching the age of 16 are considered as adults for the purpose of disability benefits, in accordance with the concern expressed by the Committee (see CRC/C/TKM/CO/2-4, para. 42). It is further concerned about the lack of information on measures and support for starting independent life available to girls and boys with disabilities reaching adulthood.

14. **The Committee urges the State party to:**

(a) **Evaluate the results achieved so far through the implementation of the programmes on early childhood development and strengthen those programmes and allocate adequate resources accordingly;**

(b) **Take measures to ensure that children continue receiving disability benefits up to the age of 18, in accordance with the recommendation made by the Committee (see CRC/C/TKM/CO/2-4, para. 43);**

(c) **Provide adequate support for adolescents with disabilities to help them start an independent life when they reach adulthood.**

Awareness-raising (art. 8)

15. The Committee is concerned at the shortage of programmes and initiatives to eliminate negative stereotypes and prejudices of persons with disabilities in society, including through the mass media. The Committee also regrets the lack of measures taken to make available the national sign language version of the Convention. It further regrets the lack of detailed data on the number of seminars and conferences organized to raise awareness on the Convention and the number of participants therein.

16. **The Committee encourages the State party to implement awareness-raising campaigns, with assistance from United Nations agencies and the involvement of organizations of persons with disabilities, to actively disseminate positive images of persons with disabilities, focusing on their abilities and related good practices as well as on the right to legal capacity in particular. Those campaigns should target the general population, public officials and the private sector in accessible formats.**

Accessibility (art. 9)

17. The Committee is concerned by the inadequate implementation of the accessibility-related procedures set forth in the Social Protection Code, in particular in rural areas, and the lack of information on whether accessibility standards, a monitoring mechanism and a system of sanctions exist.

18. **The Committee recommends that the State party develop a comprehensive accessibility plan with sufficient resources, including establishing enforceable and deterrent sanctions for non-compliance and a road map based on detailed data, in accordance with article 9 of the Convention and as specified in the Committee's general comment No. 2 (2014) on accessibility, which sets benchmarks for the removal of existing barriers. The Committee also recommends that the State party promote universal design for all buildings and public services, information and social communication media, transport and services open to the public, in both urban and rural areas.**

Situations of risk and humanitarian emergencies (art. 11)

19. The Committee is concerned by the lack of a specific strategy, protocols and tools to prevent, protect, assist and involve persons with disabilities in situations of risk and humanitarian emergencies and, with special regard to the mass media, to ensure their equal access to information, especially when designing and executing evacuation plans and subsequent reconstruction plans, in compliance with accessibility standards.

20. **The Committee recommends that the State party adopt and implement a comprehensive emergency and disaster risk reduction strategy and protocols fully inclusive of and accessible to persons with disabilities, in particular when evacuating them, with specific regard to deaf and hard of hearing people and people with multiple forms of disabilities. The needs of persons with disabilities should also be considered in the planning and implementation of reconstruction programmes, taking into account accessibility standards.**

Equal recognition before the law (art. 12)

21. The Committee is concerned that, under the Family Code, which governs matters of guardianship, tutorship and wardship, the State party continues to employ substituted decision-making instead of making further steps towards supported decision-making, contrary to the provisions of article 12 of the Convention and the Committee's general comment No. 1 (2014) on equal recognition before the law. It is also concerned by the lack of transparent and clear distinctions among the legal institutions relevant to legal capacity

or information on the existing safeguards and remedies in cases of violations of the right to legal capacity of persons with disabilities.

22. **The Committee recommends that the State party harmonize its legislation with the Convention with a view to replacing substituted decision-making with supported decision-making regimes, including transparent safeguards, that respect the person's autonomy, will and preferences.**

Access to justice (art. 13)

23. The Committee expresses its concern about the lack of information on specific measures and protocols, other than those included in the Code of Criminal Procedure, to provide reasonable accommodation in judicial proceedings for persons with disabilities, including the provision of sign-language interpretation for deaf or "mute" persons and accessible formats for communication for deaf-blind persons, persons with intellectual disabilities and persons with psychosocial disabilities, among others, particularly in civil cases.

24. **The Committee recommends that the State party facilitate full barrier-free and non-discriminatory access to the justice system for persons with disabilities by providing reasonable accommodation with safeguards. The State party should also review accordingly the value of the testimony of persons with disabilities, including deaf persons, deaf-blind persons and persons with intellectual or psychosocial disabilities.**

Liberty and security of the person (art. 14)

25. The Committee is concerned that no data is available on persons with disabilities who are involuntary placed in psychiatric facilities. It is also concerned at reports that orders for such placements are generally based on the alleged "dangerousness" of the person with disabilities, the definition of which is partly based on the concept of insanity.

26. **The Committee recommends that the State party:**

(a) **Repeal the laws that allow for the deprivation of liberty on the basis of disability and potential "dangerousness", with a view to prohibiting disability-based forced detention of children and adults with disabilities;**

(b) **Ensure that the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, including the presumption of innocence, the right to defence and to a fair trial and reasonable accommodation in prisons, are provided for persons with disabilities on an equal basis with others.**

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

27. The Committee is concerned about the lack of data on persons with disabilities who are subjected to compulsory medical treatment by court orders. It is also concerned that persons under guardianship may be subjected to medical experimentation without their individual free and informed consent.

28. **The Committee encourages the State party to repeal all legislation that authorizes compulsory medical treatment, medical experimentation included, without the free and informed consent of the person.**

Freedom from exploitation, violence and abuse (art. 16)

29. The Committee is concerned by the insufficient measures to prevent violence against person with disabilities in all settings, and to protect the victims, in particular women and children with disabilities.

30. **The Committee recommends that the State party:**

(a) **Ensure the availability and accessibility of effective independent monitoring and complaint mechanisms in order to support the authorities to investigate and prosecute all cases of violence against persons with disabilities, in particular women and children;**

(b) **Collect disaggregated data on cases of violence against persons with disabilities, in particular in institutions;**

(c) **Provide accessible shelters, hotlines and information for victims of violence and abuse, and training for law enforcement officers and the judiciary.**

Protecting the integrity of the person (art. 17)

31. The Committee is concerned that the termination of pregnancy and sterilization as a method of contraception may be performed for persons with disabilities purely as a "medical necessity", without the free and informed consent of the individual.

32. **The Committee recommends that the State party review its legislation in order to introduce safeguards and ensure that termination of pregnancy and sterilization are only carried out with the prior, free and informed consent of the person concerned, and with safeguards.**

Living independently and being included in the community (art. 19)

33. The Committee is concerned about the absence of an effective road map with specific targets to deinstitutionalize persons with disabilities.

34. **The Committee recommends that the State party design and effectively implement a strategy based on measurable targets for the deinstitutionalization of persons with disabilities, taking into account the various types of institutions, with a view to promoting community-based services and supporting independent living. The above-mentioned strategy should be developed in consultation with organizations of persons with disabilities. The strategy should provide for sufficient trained therapists, social workers and other relevant specialists.**

Freedom of expression and opinion, and access to information (art. 21)

35. The Committee is concerned about the insufficient measures taken to ensure that all information is provided to persons with disabilities in accessible formats. It is also concerned that standards and procedures on the use of Braille, sign language and other forms of communication are not in compliance with the Convention. It is particularly concerned that sign language is only considered as a means of interpersonal communication and not as an official language on its own.

36. **The Committee recommends that the State party take steps to ensure accessible communication formats in accordance with international standards by allocating adequate funding for their development, promotion and use, and carry out those tasks with the involvement of the relevant organizations of persons with disabilities, as well as allocating adequate funding for professional training for sign language interpreters, teachers, parents and family members of the deaf, among others. The State party should also recognize the country's sign language as an official language.**

Respect for home and family (art. 23)

37. The Committee is concerned that, under the State party's concept of legal capacity, some persons with disabilities are not allowed to enter into marriage. It also notes that the State party does not provide adequate assistance to persons with disabilities in performing their child-rearing responsibilities.

38. **The Committee recommends that the State party review and repeal all existing legislation that prevents persons with disabilities from marrying or adopting children on the basis of disability of a person alone and adopt a new legislative framework and financial incentives that include additional measures to enhance their parenting skills.**

Education (art. 24)

39. The Committee is concerned about the lack of specific data, indicators and binding targets to monitor the transition to an inclusive education system. It is especially concerned about the placement of children with disabilities in special boarding and other specialized schools. It is also concerned about insufficient safeguards for parents with children with disabilities regarding the decisions of medical and educational assessment commissions on children's placement in regular schools, as well as about the imposition of vocational training on some students with disabilities after completion of their basic education.

40. **The Committee recommends that the process of inclusive education of students with disabilities be not dependent solely and exclusively on the decision of a commission for medical and educational assessment, but also on providing pupils with disabilities with accessible conditions in schools and ensuring that they are free to decide on the vocational training they wish to receive. The Committee recommends the State party to publish relevant, periodic, detailed and disaggregated data, including by academic year, on achievements relating to inclusive quality education with special regard to the use of sign language, Braille and other forms of accessible formats of augmentative and alternative communication. The State party should also ensure that inclusive education is an integral part of core teacher training in universities.**

Work and employment (art. 27)

41. The Committee is concerned that there is insufficient information on the implementation of the quota system. It is also concerned about the reported practice of classifying some persons with disabilities as "unemployable", which prevents a person with a certain degree of disability from gaining employment based on medical assessment alone, without taking into account the nature of the work in question.

42. **The Committee recommends that the State party ensure that the quota system significantly improves the participation of persons with disabilities in employment and diversity in workplaces within the framework of reasonable accommodation by ensuring enforcement through effective and transparent sanctions for non-compliance available in all accessible formats for persons with disabilities. The Committee further recommends eliminating the reported practice of classifying a person with disabilities as "unemployable".**

Adequate standard of living and social protection (art. 28)

43. The Committee is concerned about the lack of information regarding specific references to persons with disabilities within programmes for socioeconomic development and other national strategies and programmes for economic, political and cultural development.

44. **The Committee recommends that the State party make sure to refer expressly to the needs of persons with disabilities in all national programmes and strategies aimed at the development of the country, in close cooperation with international organizations in order to benefit from their technical assistance.**

Participation in political and public life (art. 29)

45. The Committee is concerned about the lack of participation of persons with disabilities as candidates in elections. It is further concerned about the exclusion of persons who are under guardianship from the right to vote.

46. **The Committee recommends that the State party make sure that all restrictions on the right to vote of persons with disabilities are removed, by immediately restoring the right to vote for persons deprived of legal capacity and by providing full accessibility and information in relation to their right to vote. Similarly, the State party should provide support for persons with disabilities to be candidates in national and local elections.**

Participation in cultural life, recreation, leisure and sport (art. 30)

47. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

48. **The Committee encourages the State party to adopt all appropriate measures in order to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

49. The Committee is concerned at the lack of information provided about the involvement of persons with disabilities in consultations on reforming the statistical system, particularly to ensure disaggregated data on persons with disabilities.

50. **The Committee recommends that the State party strengthen its efforts to create a database and systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability, as well as region; and develop gender- and age-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the shift from a medical to the human rights-based approach to disability.**

International cooperation (art. 32)

51. The Committee is concerned that the State party has still not fully engaged with international non-governmental organizations in order to benefit from their expertise in human rights monitoring, reporting and analysis, policy development and implementation and all related capacity development in international cooperation.

52. **The Committee recommends that the State party continue to strengthen broad cooperation with international organizations to fully benefit from their technical assistance for the country as well as closer partnerships with organizations of persons with disabilities, and to promote their more active participation in international cooperation projects. It also calls on the State party to ensure the integration of a disability rights-based perspective, in accordance with the provisions of the**

Convention, into all efforts to achieve the Millennium Development Goals and into the post-2015 development agenda.

National implementation and monitoring (art. 33)

53. The Committee is concerned that little attention is paid to the involvement of organizations of persons with disabilities in the establishment and functioning of an independent monitoring mechanism. It is also concerned that the State party has not yet identified a focal point in line with article 33 (1) of the Convention.

54. **The Committee calls on the State party to expedite the establishment of an independent monitoring mechanism with the active involvement of persons with disabilities and a focal point responsible for disability issues, in accordance with the Convention and other international standards.**

Follow-up and dissemination

55. The Committee requests that the State party, within 12 months and in accordance with article 35 (2) of the Convention, provide information on the measures taken to implement the Committee's recommendations as set forth in paragraph 36 above.

56. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the law enforcement and the media, using modern social communication strategies.

57. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its next periodic report. The Committee also advise the State party to request further and technical assistance from United Nations agencies to facilitate the implementation of the Convention and of the present recommendations.

58. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and accessible formats, and to make them available on the Government's website on human rights.

Next report

59. The Committee requests the State party to submit its combined second, third and fourth periodic reports no later than 4 October 2022 and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the combined reports of a State party. The replies of a State party to such a list of issues constitute its report.